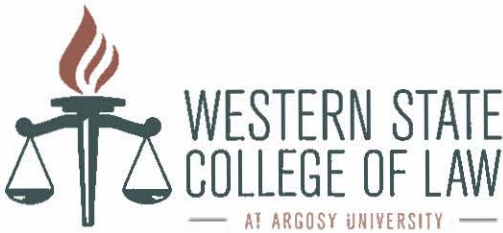


# EXHIBIT H



1 Banting  
Irvine, CA 92618  
714.738.1000  
www.wsulaw.edu

November 5, 2018

*Via email*  
**ICE-FOIA@dhs.gov**

**U.S. Immigration and Customs Enforcement  
Office of the Principal Legal Advisor  
U.S. Department of Homeland Security  
500 12th Street, S.W., Mail Stop 5900  
Washington, D.C. 20536-5900**

RE: Freedom of Information Act Appeal;  
2018-ICFO-59705

Dear FOIA Officer:

This is an appeal under the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552, for FOIA Request 2018-ICFO-59705.

On September 7, 2018, I submitted a FOIA request on behalf of the Western State College of Law Immigration Clinic, Immigrant Defenders Law Center, Public Counsel, and Esperanza Immigrant Rights Project at Catholic Charities, seeking information about ICE's collaboration and communications with the Union Pacific Railroad Police in the enforcement of immigration laws.

On September 18, 2018, we received an e-mail response from ICE-FOIA@ice.dhs.gov seeking clarifications. We replied on September 24, 2018 by providing the requested clarifications and agreeing to narrow the scope of our initial request. A copy of this correspondence is attached for your reference.

On October 25, 2018 we received a final response letter stating that ICE conducted a search of the Enforcement and Removal Operations Office, the Homeland Security Investigations Office, and the Office of Acquisitions, and found no responsive records. The letter was signed by Catrina M. Pavlik-Keenan, FOIA Officer. Copies of our original request and this denial letter are attached for your reference.

We appeal both the constructive denial of our request and ICE's limited search within the three above-listed offices, which is insufficient under the "reasonable effort" requirement in 5 U.S.C. § 552(a)(3)(B)-(C). Our initial FOIA request specifically seeks release of "[c]ommunications between any employee(s) for the Union Pacific Railroad Police and any ICE employee(s) working in any ICE Field Office, including but not limited to the Los Angeles Field Office." The request further asked it be directed to "all appropriate offices and departments within the agency, including, but not limited to, the Office of Public Affairs, the Office of Detention Policy and Planning, the Office of Detention Oversight, and the Office of State/Local Coordination." Our September 24, 2018 e-mail response to ICE-FOIA@ice.dhs.gov clarifies that in particular, "[w]e request that all Field Office Directors, Assistant Field Office Directors, and Supervisory Detention Officers, attorneys with the Office of Chief Counsel, and all officers assigned to 'fugitive operations' teams be searched. We also request that all officers conducting investigations in the El Monte, CA area be searched."

Pursuant to 5 U.S.C. § 552(a)(6)(A)(ii), we expect a response to this appeal within the twenty (20) day statutory time limit. If you have any questions in processing this request, please do not hesitate to contact me at [jkoh@wsulaw.edu](mailto:jkoh@wsulaw.edu) or (714) 459-1136.

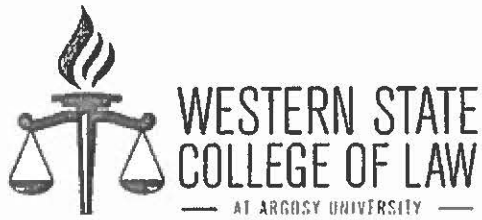
Yours truly,



Jennifer Lee Koh, Esq.

Professor of Law and Director,  
Immigration Clinic  
Western State College of Law  
1 Banting  
Irvine, CA 92618

Enclosures



I Banting  
Irvine, CA 92618

[www.wsulaw.edu](http://www.wsulaw.edu)

---

September 7, 2018

*Via email [ICE-FOIA@dhs.gov](mailto:ICE-FOIA@dhs.gov)*

**U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street, SW, Stop 5009  
Washington, DC 20536-5009**

*Via overnight mail*

**U.S. Immigration and Customs Enforcement  
Los Angeles Field Office  
300 North Los Angeles  
Los Angeles, CA 90012**

**U.S. Immigration and Customs Enforcement  
Los Angeles Office – Office of Chief Counsel  
606 South Olive Street, 8<sup>th</sup> Floor  
Los Angeles, CA 90014**

**RE: Freedom of Information Act Request**

**Dear Sir or Madam:**

This is a request under the Freedom of Information Act, 5 U.S.C. Sec. 552 (“FOIA”) on behalf of the Western State College of Law Immigration Clinic, Immigrant Defenders Law Center, Public Counsel and Esperanza Immigrant Rights Project at Catholic Charities (collectively “the Requestors”) seeking information about Immigration and Customs Enforcement (ICE)’s collaboration and communications with the Union Pacific Railroad Police in the enforcement of the immigration laws. We ask that you please direct this request to all appropriate offices and departments within the agency, including, but not limited to, the Office



of Public Affairs, the Office of Detention Policy and Planning, the Office of Detention Oversight, and the Office of State/Local Coordination.

The Trump Administration has signaled its plans to expand collaborations between local law enforcement authorities and ICE. For instance, the Administration has directed the Secretary of the Department of Homeland Security to expand its use of section 287(g) agreements, in which state and local law enforcement are deputized to engage in immigration enforcement activity. *See* 8 U.S.C. sec. 1357(g); Executive Order: Enhancing Public Safety in the Interior of the United States at Sec. 8 (Jan. 25, 2017), at <https://www.whitehouse.gov/presidential-actions/executive-order-enhancing-public-safety-interior-united-states/>. Earlier this year, the Department of Justice filed litigation in federal district court against the State of California for its enactment of SB 54, which precludes state and local law enforcement officials in California from, among other things, cooperating with the federal government on immigration enforcement activities in a range of ways.

The Union Pacific Railroad Police are affiliated with the Union Pacific Corporation, a publicly-held corporation that operates the Union Pacific Railroad. According to its website, the Union Pacific Railroad Police consists of more than 175 Special Agents, who “are certified state law enforcement officers with investigative and arrest powers both on and off railroad property in most states,” and “also have interstate law enforcement authority pursuant to federal law.” Union Pacific Special Agents, at [https://www.up.com/aboutup/community/safety/special\\_agents/index.htm](https://www.up.com/aboutup/community/safety/special_agents/index.htm) (last visited Aug. 30, 2018). The Union Pacific Railroad Police is accredited by the Commission on Accreditation for Law Enforcement Agencies, Inc., and its authority covers 32,000 miles of track in 23 states. *Id.* Complaints about the lack of governmental oversight of abuses by railroad police, including Union Pacific, have appeared in the media. *See* Ron Nixon, Complaints Rise Against Nation’s Railroad Police, New York Times, May 28, 2015 (“People who say they have been mistreated by the railroad police have little recourse except to complain to the railroads, but because the railroads are private companies, they can operate largely in secret.”).

Over the past year, attorneys and advocates in the Los Angeles area have identified incidents in which noncitizens have been stopped, detained, apprehended and arrested by officers affiliated with the Union Pacific Railroad Police, who have in turn transferred custody of those individuals to ICE. In at least one of those cases, the Form I-213 referenced the Union Pacific Railroad Police as working together on an ICE Fugitive Operations investigation that took place on January 3, 2018 in the El Monte, CA area. *See* Appendix, Form I-213 (“On Wednesday January 3, 2018...while performing Fugitive Operations with Supervisory Detention and Deportation Officer (SDDO) Gudino, Deportation Officer Guluzian and Burdick and the Union Pacific Railroad Police... [subject] was encountered at the train tracks”); Letter from El Monte Police Report in response to a California Public Records Act request regarding January 3, 2018 incident (stating that “Union Pacific Police, in conjunction with Homeland Security, was conducting their own and separate investigation at the time.”).

The Requestors hereby seek information related to ICE’s communications with, efforts to induce cooperation from, policies regarding, and other collaboration with the Union Pacific Railroad Police regarding immigration enforcement activity.

### **Request**

For the purposes of this Request, "Records" are collectively defined to include, but are not limited to: contracts or agreements; memoranda of understanding; e-mails; instructions; directives; guidance documents; reports; legal and policy memoranda; formal and informal presentations; training documents; bulletins; alerts; updates; advisories; social-media posts; communications made through any website or web service, whether private or public (including, but not limited to, iMessage, WhatsApp, Signal, Gchat, Snapchat, or Twitter); text communications between phones or other electronic devices (including, but not limited to, communications sent via SMS or other text, or Blackberry Messenger); images, video, and audio recorded on cell phones; voicemail messages; and minutes or notes of meetings and phone calls. We seek release of the following:

- A. Records concerning any communications between any ICE officer, agent, attorney or employee and any Union Pacific Railroad Police or Union Pacific Corporation officer, agent, attorney or employee regarding the identification, investigation, apprehension, arrest, detention, or referral of persons believed to have violated the immigration laws;
- B. Records concerning any current agreements between the Union Pacific Railroad Police or Union Pacific Corporation and ICE pursuant to Section 287(g) of the Immigration and Nationality Act or any other agreements authorizing state or local law enforcement agents to perform the functions of an immigration officer;
- C. Records concerning any request to or from the Union Pacific Railroad Police to enter into any other type of agreement with ICE;
- D. Forms I-1213 that reference activity by the Union Pacific Railroad Police;
- E. Communications between any employee(s) for the Union Pacific Railroad Police and any ICE employee(s) working in any ICE Field Office, including but not limited to the Los Angeles Field Office;
- F. Records concerning the number of individuals who have been detained, arrested or otherwise subject to questioning by ICE agents as a result of investigation, apprehension, arrest or detention by Union Pacific Railroad Police employees.

We seek records dating from January 1, 2017 until the date of this request.

If you deny any part of this request, please cite each specific reason or exemption to FOIA that you believe justifies your refusal to release the information, and notify us of appeal procedures available to us under the law. The Requesters expect release of all segregable portions of otherwise exempt material. 5 U.S.C. § 552(b). The Requesters reserve the right to appeal a decision to withhold information or a denial of fee waivers. 5 U.S.C. § 552(a)(6)(A)(i).

### **The Requestors**

**The Western State College of Law Immigration Clinic** is a program at Western State College of Law, a non-profit, American Bar Association-accredited law school located in Irvine, CA.



The Immigration Clinic trains upper-level law students in practical lawyering skills and provides pro bono representation to indigent immigrants in a range of immigration matters. The Immigration Clinic also engages in community education, advocacy, policy reform, and coalition-building in conjunction with a range of nonprofits located in Southern California and throughout the country. The Immigration Clinic has also participated in the preparation of reports about immigration enforcement activity and best practices for immigration advocates.

**Immigrant Defenders Law Center** is a social justice law firm founded to bring us closer to a world where no immigrant is forced to go to court alone. Immigrant Defenders employs a team of attorneys and legal professionals to provide pro bono legal representation to detained immigrants facing removal in immigration court. Immigrant Defenders also provides training to attorneys and works in collaboration with other non-profit organizations to ensure that advocates and community members have accurate, up-to-date information about immigration enforcement practices in the country, with an emphasis on Southern California.

**Public Counsel**, based in Los Angeles, California, is the largest *pro bono* law firm in the nation. Public Counsel represents indigent immigrants from around the world in their claims to remain safe and free in the United States. Public Counsel has provided legal services to thousands of immigrants detained by the Department of Homeland Security, ranging from legal orientations and *pro se* assistance to direct representation in removal and bond proceedings. Public Counsel also represents immigrants in impact litigation, and engages in training, advocacy, and coalition-building efforts with other nonprofit and grassroots groups seeking to vindicate immigrants' rights.

**Esperanza Immigrant Rights Project** is associated with Catholic Charities, a non-profit organization devoted to providing pro bono and low-cost legal assistance to indigent immigrants. Esperanza provides pro bono representation, know-your-rights presentations and assistance to detained immigrants in the Los Angeles Area. Esperanza also provides training to attorneys and works in collaboration with other non-profit organizations to ensure that advocates and community members have accurate, up-to-date information about immigration enforcement practices in the country, with an emphasis on Southern California.

### **Fee Waiver**

The Requesters are entitled to a waiver of all costs because the information sought "is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the [Requesters'] commercial interest." 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6 C.F.R. § 5.11(k) (records furnished without charge if the information is in the public interest, and disclosure is not in the commercial interest of institution). The Requesters have a proven track-record of compiling and disseminating information to the public about government functions and activities. The Requesters have undertaken this work in the public interest and not for any private commercial interest. Similarly, the primary purpose of this FOIA request is to obtain information to further the public's understanding of federal immigration enforcement actions and policies. Access to this information is a prerequisite for members of the local community organizations to meaningfully evaluate immigration enforcement actions and their potential detrimental effects. The public has an interest in knowing about the manner in which the federal government involves state and local entities in the enforcement of federal immigration law.

The Union Pacific Railroad Police is a relatively unknown law enforcement entity that nonetheless operates throughout almost the entire country. There is almost no data in the public domain about ICE's potential collaboration with the Union Pacific Railroad Police or whether and how ICE has encouraged the Union Pacific Railroad Police to engage in immigration enforcement activity notwithstanding certain state laws that seek to preclude local law enforcement collaboration with ICE, such as California's SB 54. The Records sought in this request will inform the public of the scope and effect of ICE's collaboration with the Union Pacific Railroad Police.

As stated above, the Requesters have no commercial interest in this matter. The Requesters will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost. Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers of noncommercial requesters.'").

In the alternative, the Requesters seek all applicable reductions in fees pursuant to 6 C.F.R. § 5.11(d). The Requesters agree to pay for the first 100 pages of duplication. *See* 6 C.F.R. § 5.11(d). The Requesters agrees to pay search, duplication, and review fees up to \$200.00. If the fees will amount to more than \$200.00, the Requesters request a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). If no fee waiver is granted and the fees exceed \$200.00, please contact the Requesters' undersigned counsel to obtain consent to incur additional fees.

\*\*\*

Should you have any questions, please do not hesitate to contact me at [jkoh@wsulaw.edu](mailto:jkoh@wsulaw.edu) or (714) 459-1136.

Yours truly,

/s/

Jennifer Lee Koh, Esq.

Professor of Law and  
Director, Immigration Clinic  
Western State College of Law  
1 Banting  
Irvine, CA 92618

Enclosures



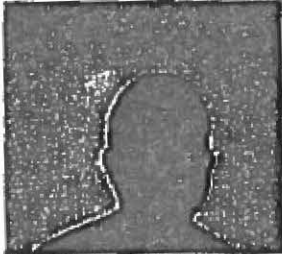


## **APPENDIX**

- Redacted Form I-213 referencing Union Pacific Railroad in January 3, 2018 arrest of individual in El Monte, CA
- Redacted letter from El Monte Police Report referencing Union Pacific Railroad investigation with Department of Homeland Security on January 3, 201

U.S. Department of Homeland Security

Subject ID : \_\_\_\_\_

## Record of Deportable/Inadmissible Alien


Family Name (CAPS)		First	Middle	Sex M	Hair BRN	Eyes BRN	Complexion
Country of Citizenship MEXICO		Passport Number and Country of Issue		Height 64	Weight 150	Occupation UNEMPLOYED	
U.S. Address		Date, Place, Time, and Manner of Last Entry 05/07/2001, SDP, B2 - Visitor For Pleasure		Passenger Boarded at		Scars and Marks	
Number, Street, City, Province (State) and Country of Permanent Residence		Date of Birth		Age: 44		FBI Number	
Date of Birth		Age: 44		Date of Arrest 01/03/2018		Location Code LOS/LOS	
City, Province (State) and Country of Birth		AR <input checked="" type="checkbox"/> Form: (Type and No.) Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>		Method of Location/Apprehension CLC RA		Date/Time 01/03/2018 11:37	
NIV Issuing Post and NIV Number		Social Security Account Name		By		See Narrative	
Date Visa Issued		Social Security Number		Status at Entry		Status When Found	
Immigration Record NEGATIVE		Criminal Record None Known		Length of Time Legally in U.S.			
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)		Number and Nationality of Minor Children					
Father's Name, Nationality, and Address, if Known		Mother's Present and Maiden Name, Nationality, and Address, if Known					
Monies Due/Property in U.S. from an Immediate Relative		Fingerprints <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		System Checks See Narrative		Charge Code Word(s) See Narrative	
Name and Address of (Last/Current) U.S. Employer		Type of Employment		Salary		Employed from/to	
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.) PIN: 1242113328 Left Index fingerprint Right Index fingerprint							
  							
Subject Health Status ----- The subject claims good health.							
Current Administrative Charges ----- 01/03/2018 - 237a1B - NONIMMIGRANT OVERSTAY							
... (CONTINUED ON I-831)							
Alien has been advised of communication privileges <u>January 3, 2018</u> (Date/Initials)				Z 7740 GULUZIAN 7740 DO (Signature and Title of Immigration Officer)			
Distribution:				Received: (Subject and Documents) (Report of Interview) Officer: Z 7740 GULUZIAN on: January 3, 2018 (Time) Distribution: Warrant of Arrest/Notice to Appear Examining Officer: GUDINO, R 2269			

Form I-213 (Rev. 08/01/07)

5000

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name [REDACTED]	File Number [REDACTED]	Date 01/03/2018
<b>Previous Criminal History</b> ----- Subject has no criminal history		
<b>Records Checked</b> ----- TRCS Pos IAFIS Pos CIS Pos		
<b>ARRESTING AGENTS</b> ----- Z 7740 GULUZIAN R 2289 GUDINO B 8039 BURDICK		
<b>Record of Deportable/Excludable Alien:</b> On Wednesday January 3, 2018, at approximately 1030 hours, while performing Fugitive Operations with Supervisory Detention and Deportation Officer (SDDO) Gudino. Deportation Officer Guluzian, Burdick and the Union Pacific Railroad Police, [REDACTED], COC: Mexico was encountered at the train tracks at approximately 3198 Gilman Road (Nearest Intersection Valley Boulevard and Gilman Road) in El Monte, California, 91732. The Subject provided Officer Guluzian an expired U.S. Government issued identification ( [REDACTED] ) and claimed that he entered the United States legally at San Ysidro port of entry sometime in May of 2001. The Subject claimed that he had no applications or petitions pending with the USCIS. The Subject also claimed that he overstayed his visa and is currently residing in the United States illegally.		
Officer Guluzian identified himself as an ICE Agent with the Department of Homeland Security, Immigration and Customs Enforcement and the Subject under arrest without any incident.		
At the time of the arrest, the Subject did not claim any health issues.		
The Subject was transported to the Los Angeles ICE detention facility for booking.		
During processing, the Subject made no claims to United States Citizenship by way of birth, Naturalization or Derivative.		
<b>IMMIGRATION INFORMATION-ENTRY:</b>		
The Subject stated that she was born in Tijuana, Mexico		
The Subject claimed to be a native and a citizen of Mexico.		
The Subject did not claim to be a Lawful Permanent Resident of the United States.		
The Subject did no claim to be a native and a Citizen of the United States.		
According to CBP Database, On or about May 7, 2001, the Subject entered the United States at San Diego, California with a Border Crossing Card as a B-2 Non-Immigrant.		
Signature  Z 7740 GULUZIAN	Title DO	

2 of 3 Pages



U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name [REDACTED]	File Number Event No: LOS1801000050	Date 01/03/2018
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The Subject claimed that he never departed the United States after his last entry on May 7, 2001.

**CRIMINAL CONVICTION HISTORY:**

The Subject was arrested by El Monte Police Department on December 1, 2016 for HS 11364(A) Possession of Opium Pipe. Disposition: Insufficeinet Evidence.

**ADDITIONAL INFORMATION:**

The Subject's Wants and Warrant checks are negative.

Prior to field operations the following record checks were completed: CIS, TECS, CLAIMS and NCIC, based on the findings; identity, alienage, removability and probable cause was established to execute said arrest.

The Subject claimed no gang affiliation.


The Subject claimed he has not served in the United States Military.

The Subject claimed no fear of returning back to Mexico.

**DISPOSITION:**

The Subject will be processed and served with a Notice to Appear before the Immigration Judge. The Subject will be kept in the custody of the Department of Homeland Security pending removal proceedings.

**Other Identifying Numbers**  
-----  
[REDACTED]

Signature  E 7740 GOLUZIAN	Title DO
---	-------------

3 of 3 Pages



# CITY OF EL MONTE



POLICE DEPARTMENT



Chief of Police  
DAVID REYNOSO

May 3, 2018

Jennifer Koh  
Western State College of Law  
1 Banting  
Irvine, CA 92618

Dear Ms. Koh:

Pursuant to your letter of inquiry, I have compiled the requested information. Available information and any exceptions are listed below.

1. No record of such contacts with the exception of the incident in question dated, January 3, 2018.
2. Refer to incident #18-000343: (Report face page is attached to this response). Complete report is not available due to pending criminal matter. [redacted] was contacted during the investigation, but he was not issued a citation or arrested by El Monte Police.

**Synopsis:** On Wednesday, 1/03/2018, at approximately 0730 hours, El Monte Police Officers were conducting a transient outreach detail in the area of Valley Blvd. and the San Gabriel Wash (riverbed). During this detail, four subjects were contacted and issued citations for illegal camping (EMMC 9.48.020). [redacted] was not issued a citation or arrested. All subjects were then released. It should be noted, Union Pacific Police was on scene, but not at the request of the El Monte Police.

**Incident #18-000447:** Pedestrian check of transients causing a disturbance in the area in question. No one was issued a citation or arrested. Call is attached to this response.

**Synopsis:** On Wednesday, 1/03/2018, at approximately 1643 hours, El Monte Officers conducted a pedestrian check at Valley Blvd. and Gilman Road pursuant to several transients causing a disturbance. The subjects checked okay and were released in the field. No arrests were made and no citations were issued.



# CITY OF EL MONTE



POLICE DEPARTMENT



*Chief of Police*  
DAVID REYNOSO

3. Refer to attached policy (#428) and related training documents.
4. No El Monte Police Officers or other El Monte Police personnel were involved in any arrest of \_\_\_\_\_ on the day in question. Union Pacific Police, in conjunction with Homeland Security, was conducting their own and separate investigation at the time. Galvez was arrested by Union Pacific Police without the assistance of El Monte Officers.

El Monte Officers involved with the above listed incidents; #18-000343 and #18-000447, are identified in the related reports and call log. Refer to attached.

Should you require additional assistance please do not hesitate to contact me. I may be reached at (626) 580-2118 Monday through Thursday 0700 hrs.-1700 hrs.

Sincerely,

Jason Chao #586  
Sergeant



**Koh, Jennifer L.**

---

**From:** Koh, Jennifer L.  
**Sent:** Monday, September 24, 2018 11:13 AM  
**To:** 'ICE-FOIA'  
**Subject:** RE: FOIA request (Union Pacific Railroad Police) - 2018-ICFO-59705

Thank you for your response.

- We request that all Field Office Directors, Assistant Field Office Directors, and Supervisory Detention Officers, attorneys with the Office of Chief Counsel, and all officers assigned to “fugitive operations” teams be searched. We also request that all officers conducting investigations in the El Monte, CA area be searched.
- We are primarily seeking immigration-related records.
- As noted in the request, the records we are seeking include “contracts or agreements; memoranda of understanding; e-mails; instructions; directives; guidance documents; reports; legal and policy memoranda; formal and informal presentations; training documents; bulletins; alerts; updates; advisories; social-media posts; communications made through any website or web service, whether private or public (including, but not limited to, iMessage, WhatsApp, Signal, Gchat, Snapchat, or Twitter); text communications between phones or other electronic devices (including, but not limited to, communications sent via SMS or other text, or Blackberry Messenger); images, video, and audio recorded on cell phones; voicemail messages; and minutes or notes of meetings and phone calls.”
- With respect to “[r]ecords concerning the number of individuals who have been detained [or] arrested ....as a result of investigation, apprehension, arrest or detention by Union Pacific Railroad Police employees,” we are seeking records already maintained by ICE that reflect such numbers or, if not available, request that the numbers be compiled.
- With respect to individuals “otherwise subject to questioning by ICE agents as result of” activity by the Union Pacific Railroad Police, we are willing to narrow our request to exclude that portion of the original request.

I look forward to the agency’s response.

Yours truly,

Jennifer Lee Koh

**From:** ICE-FOIA <ICE-FOIA@ice.dhs.gov>  
**Sent:** Tuesday, September 18, 2018 1:51 PM  
**To:** Koh, Jennifer L. <jkoh@wsulaw.edu>  
**Cc:** ICE-FOIA <ICE-FOIA@ice.dhs.gov>  
**Subject:** Re: FOIA request (Union Pacific Railroad Police) - 2018-ICFO-59705

Good afternoon Ms. Koh,

ICE FOIA is seeking clarification regarding “collaboration and communications with the Union Pacific Railroad Police”.

As written, the attached request is too broad, indicating that each employee and contractor at all ICE field offices and headquarters (HQ) offices would need to respond. Therefore, to conduct a thorough and adequate search for records, ICE needs to know specifically:

- Who/what individuals or positions in the offices (field and HQ) should conduct searches? It is unreasonable to have everyone in each of ICE's field offices and HQ offices conduct searches.
- Are you primarily seeking immigration-related records?
- Please be more specific as to the types of records you are seeking (e.g., "the number of individuals who have been detained, arrested by ICE agents."
- Please note that ICE does not track statistics on persons "otherwise *subject by questioning* as a result of investigation, apprehension, arrest or detention by Union Pacific Railroad Police employee" and there is no way for ICE to provide such information regarding Union Pacific Railroad Police employee actions.

Sincerely,  
ICE-FOIA

From: Koh, Jennifer L. <[jkoh@wsulaw.edu](mailto:jkoh@wsulaw.edu)>  
Sent: Friday, September 7, 2018 1:20 PM  
To: [ice-foia@dhs.gov](mailto:ice-foia@dhs.gov)  
Subject: FOIA request (Union Pacific Railroad Police)

Dear Sir or Madam:

Attached please find a FOIA request from the Western State College of Law Immigration Clinic and others.

Best,

Jennifer Lee Koh  
Professor of Law and Director, Immigration Clinic  
Western State College of Law  
1 Banting, Irvine CA 92618  
T (714) 459-1136  
[jkoh@wsulaw.edu](mailto:jkoh@wsulaw.edu)  
Research: [https://papers.ssrn.com/sol3/cf\\_dev/AbsByAuth.cfm?per\\_id=1087911](https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=1087911)  
Blog: <http://lawprofessors.typepad.com/immigration/>

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*Office of Information Governance and Privacy*

U.S. Department of Homeland Security  
500 12<sup>th</sup> St., SW  
Washington, D.C. 20536



**U.S. Immigration  
and Customs  
Enforcement**

October 25, 2018

Jennifer Koh  
Western State University College of Law  
1111 N. State College Blvd.  
Fullerton, CA 92831

**RE: ICE FOIA Case Number 2018-ICFO-59705**

Dear Ms. Koh:

This letter is the final response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated September 07, 2018. You have requested copies of the following records:

all records concerning any communications between any ICE officer, agent, attorney, or employee and any Union Pacific Railroad Police or Union Pacific Corporation officer, agent, attorney, or employee regarding the identification, investigation, apprehension, arrest, detention, or referral of persons believed to have violated the immigration laws from January 1, 2017 to present (see request for further details)

ICE has considered your request under both the FOIA, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a. Information about an individual that is maintained in a Privacy Act system of records may be accessed by that individual<sup>1</sup> unless the agency has exempted the system of records from the access provisions of the Privacy Act.<sup>2</sup>

ICE has conducted a search of the following ICE offices: Enforcement and Removal Operations (ERO), Homeland Security Investigations (HSI) and Office of Acquisitions (OAQ) for records responsive to your request and no records were found.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist

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<sup>1</sup> 5 U.S.C. § 552a(d)(1).

<sup>2</sup> 5 U.S.C. §§ 552a(d)(5), (j), and (k).



While an adequate search was conducted, you have the right to appeal this determination that no records exist within Enforcement and Removal Operations (ERO), Homeland Security Investigations (HSI) and Office of Acquisitions (OAQ) that would be responsive to your request. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8., to:

U.S. Immigration and Customs Enforcement  
Office of the Principal Legal Advisor  
U.S. Department of Homeland Security  
500 12th Street, S.W., Mail Stop 5900  
Washington, D.C. 20536-5900

Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia).

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office and refer to FOIA case number **2018-ICFO-59705**. You may send an e-mail to [ice-foia@ice.dhs.gov](mailto:ice-foia@ice.dhs.gov), call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

Catrina M. Pavlik-Keenan  
FOIA Officer